

LAKE COUNTY BOARD of ADJUSTMENT
December 13, 2017
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Don Patterson, Frank Mutch, Steve Rosso, Merle Parise, Mary Jensen

STAFF PRESENT: Jacob Feistner, Rob Edington, Tiffani Murphy, Lita Fonda; Wally Congdon

Frank called the meeting to order at 4:02 pm. Rob suggested switching the agenda order, since the agent was here for the Hansen item and no one was here for the Curry item. After group discussion, Frank switched the items.

HANSEN FAMILY TRUST CONDITIONAL USE—FINLEY POINT (4:03 pm)

Rob Edington introduced agent Melissa Tuemmler of Carstens & Associates, and presented the staff report. (See attachments to minutes in the December 2017 meeting file for staff report.) Rob referenced the 2-page color handout to the Board which was the revised attachment #8. The revision included calculations for the square footage of disturbance for slopes over 25%. The requested amount of disturbance was shown in the lower right corner. Rob noted they now had the more accurate estimate from the agent of 1800 square feet for the total amount of disturbance so he recommended adjusting the 2000 square feet of slopes mentioned in the top paragraph of pg. 16 to 1800 square feet of disturbance.

Steve noted that #9 on pg. 11 was found in condition #8 on pg. 18. On the site plan, the driveway appeared to go onto the neighbor's property when it passed the garage. Rob pointed to the standard language included as part of the zoning conformance permitting. The owner would be responsible to obtain an easement. Steve asked if the owner would have to show proof of having the easement prior to permitting. Rob replied not typically. The County didn't interpret easements. It might be required for creating a lot in a subdivision approval. The group discussed whether or not the driveway was on the neighbor's property. Rob said in this scenario, it was the owner's responsibility to obtain an easement. Steve was concerned that the Board knew ahead of time that a portion was not on the property. It put the Board in a different position. Mary agreed. She thought this was premature.

Wally said on those, they could give the County the easement and it was put in the file to which easements got recorded. Steve said the condition should be that they had to show [the County] the easement before they could get the zoning conformance permit. Jacob said the owners hadn't showed them that it was on the neighbor's property. Steve said that was the question that should be asked. Mary observed that it looked like it on the map.

Based on the photo and these maps, Frank and Mary asked how they got to the house currently. Rob described this, using attachments #1, #2 and #3. Mary thought it must have been a family property at some point. Rob agreed and spoke further on that. Regarding roads and usage, a fairly new house was in the trees and wasn't visible on the aerial [image]. Roads and parking were discussed further. Frank asked if they were adding new gravel. Regarding road surface, Rob said if they exceeded 29% of the total lot coverage, they would have to apply for a conditional use approval. Setbacks and the slopes over 25% were taken out for the buildable area. He pointed to a map where the items in red were also excluded from the impervious surface calculations. At this point in time, it was unclear if they were paving. Paving was considered impervious surface.

Melissa Tuemmler, Carstens agent for the applicants, said the path showing the driveway typically wasn't demonstrating the actual driveway surface. It was just the allowable space. It did go over on the north neighbor's. There was enough room to build a driveway that was still on the property, which typically had a 12-foot surface. There was more than enough room for the actual surface.

Frank asked if the neighbor's soils would be disturbed in the process. Melissa thought that was possible. The nice thing was it was relatively level there so not as much material would have to be disturbed or brought in. She didn't know if the lot was also family-owned. She thought that with transfers of the property, there was a potential that they would lose access to Elsa Lane. It wasn't a legal easement nor was it a [prescriptive] easement. Melissa replied it should have been. With families, you didn't think about those things.

Wally said you couldn't give someone a permit to build on somebody else's land. That being the case, if this went on the neighbor's, [the applicants] had to [have] the easement to be in compliance. A copy went in the file and it got recorded.

Steve suggested adding to the statement to say if temporary work was to be done on the neighbor's property but the finished driveway would not be outside the boundary, that a letter from the neighbors saying that it was okay to temporarily disturb some ground on their property in order to construct the very narrow driveway would be needed. Since tonight's approval was only for slope disturbance, Jacob thought the approach could be that prior to a zoning conformance permit being issued, the applicants would need to resolve this with one of three options: an easement, the applicants demonstrating no disturbance or the applicants getting a permission slip from the neighbors. Frank thought that was already in #8.

Rob explained that #7 contained standard language in response to Frank's query about it. Frank asked if there were ditches or the like that would happen on the neighbor's property. Melissa didn't think so, given the relatively level part there. That might be necessary at the approach to the County road. Rob pointed to the site plan and described where photo #1 was taken, which showed the terrain they were discussing. The direction the garage doors faced came into discussion. Rob explained the doors were on both sides of the structure. The group discussed the road location further using the attachments.

Steve noted it looked like there was plenty of room but the picture didn't show where the property line was. Rob clarified approximately where the line was in the picture at Mary's request.

Steve asked about attachment #5 and the description of the stormwater management plan. Each zone described an area from which stormwater would be collected. Each zone mentioned swales that would hold the water except 1A, with 96 cubic feet of water. Rob pointed to the second page of attachment #8. Sometimes they'd work with the applicant in the zoning conformance portion if the stormwater was inadequate. He pointed to a hand drawn 10 x 10 x 1 swale, which hadn't made it to the revised site plan.

(Frank left the room briefly at 4:30 pm to deal with an urgent call, and Don took over for that brief time.)

Steve turned to condition #5 to add a note to verify that the stormwater plan was complete. Jacob suggested that wording could be included that it shall be reviewed and approved by the Planning staff, and implemented prior to completion of the project.

Lita checked for wording in condition #8 on pg. 16. Steve said two options were already there. For the 3rd option, after 'recorded easement' at the end of the 2nd line, he added 'or written approval from adjacent property owner allowing temporary construction disturbance.'

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use with findings of fact and conditions and terms as modified. Motion carried, all in favor.

Frank noted that no public had been present to comment.

CURRY CONDITIONAL USE—SWAN SITES (4:35 pm)

Tiffani Murphy noted that neither owner nor agent were here. She presented the staff report. (See attachments to minutes in the December 2017 meeting file for staff report.) She added that completion of the construction was expected in the next month. The pictures were taken in October.

Steve asked why the neighbors were opposed. Tiffani gathered from reading their comments and speaking with the applicant that the neighbors were annoyed. In the applicant's narrative, he addressed that the neighbors had a temporary building during their construction. The neighbors rebutted that. They seemed irritated that he'd said something that they felt was untrue. The owner thought they might be upset that they would get in trouble for having something that they didn't have. She described for Merle that previously Scott Curry had lived one road over. He'd been part of the neighborhood. Frank remarked on the additional time for the use. Tiffani wasn't sure what they were referring to in that sense.

Frank noted no public were present to comment.

Motion made by Frank Mutch, and seconded by Don Patterson, to approve the conditional use subject to the conditions and terms and findings of fact. Motion carried, all in favor.

MINUTES (4:42 pm)

Motion made by Don Patterson, and seconded by Merle Parise, to approve the Nov. 8, 2017 meeting minutes as written. Motion carried, 4 in favor (Don Patterson, Frank Mutch, Steve Rosso, Merle Parise) and 1 abstention (Mary Jensen).

OTHER BUSINESS (4:43 pm)

Reappointments for 2018 were touched upon.

Frank Mutch, chair, adjourned the meeting at 4:43 pm.